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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/709,345	04/29/2004	Scott LaDell Vance	U04.0033.84	3344

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MOORE & VAN ALLEN PLLC  
P.O. BOX 13706  
Research Triangle Park, NC 27709

EXAMINER
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HUANG, WEN WU

ART UNIT	PAPER NUMBER
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2618

DATE MAILED: 10/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/709,345	<b>Applicant(s)</b> VANCE, SCOTT LADELL	
	<b>Examiner</b> Wen W. Huang	<b>Art Unit</b> 2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-45 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-45 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                 | 5) <input type="checkbox"/> Notice of Informal Patent Application                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1, 2, 6-16, 19-24, 28-32, 34-39 and 43-45 are rejected under 35 U.S.C. 102(e) as being anticipated by Turnbull (US 2004/0022395 A1).

Regarding **claim 1**, Turnbull teaches a device for hands-free push-to-talk functionality (see Turnbull, fig. 1), comprising:

a push-to-talk sensor or switch (see Turnbull, fig. 1, component 133) operable by at least one of a preset audible signal, a predetermined movement of the sensor or switch (see Turnbull, para. [0025], lines 3-5 and para. [0026]), or air pressure; and means to control operation of a communications device in response to signals from the push-to-talk sensor or switch (see Turnbull, para. [0053]).

Regarding **claim 2**, Turnbull also teaches the device of claim 1, wherein the push-to-talk sensor or switch comprises at least one of an audible signal detector (see Turnbull, fig. 3, component 115), an accelerometer, and a pressure sensitive switch.

Regarding **claim 6**, Turnbull also teaches the device of claim 1, wherein the push-to-talk sensor or switch comprises an audible signal detector (see Turnbull, fig. 3, component 115), wherein a transmit mode of the communications device is activated in response to the audible signal detector detecting a preset audible signal (see Turnbull, para. [0052], lines 3-8).

Regarding **claim 7**, Turnbull also teaches the device of claim 6, further comprising means for maintaining the communications device in the transmit mode in response to at least one of detecting a voice signal or the preset audible signal after a selected time delay (see Turnbull, para. [0006] and [0007]).

Regarding **claim 8**, Turnbull also teaches the device of claim 6, further comprising means for switching the communications device to one of a receive mode or a standby mode in response to an absence of at least one of detecting a voice signal or the preset audible signal after a selected time delay (see Turnbull, para. [0006], [0007] and para. [0025], lines 3-5).

Regarding **claim 9**, Turnbull also teaches the device of claim 1, wherein the push-to-talk sensor or switch comprises a pressure sensitive switch (see Turnbull, fig. 3, component 115), wherein a transmit mode of the communications device is activated in response to the pressure sensitive switch receiving a preset air pressure (see Turnbull, para. [0052], lines 3-8).

Regarding **claim 10**, Turnbull also teaches the device of claim 9, further comprising means for maintaining the communications device in a transmit mode in response to at least one of detecting a voice signal or the preset air pressure after a selected time delay (see Turnbull, para. [0006] and [0007]).

Regarding **claim 11**, Turnbull also teaches the device of claim 9, further comprising means for switching the communications device to one of a receive mode or standby mode in response to an absence of at least one of detecting a voice signal or the preset air pressure after a selected time delay (see Turnbull, para. [0006], [0007] and para. [0025], lines 3-5).

Regarding **claim 12**, Turnbull also teaches the device of claim 1, wherein the communications device is a wireless communications device (see Turnbull, fig. 2, component 280 and para. [0039]).

Regarding **claim 13**, Turnbull also teaches the device of claim 1, wherein the communications device is one of a radio (see Turnbull, fig. 2, component 280 and para. [0039]), a cellular phone, a cordless phone, a personal digital assistant and a computer.

Regarding **claim 14**, Turnbull also teaches the device of claim 1, further comprising a headset (see Turnbull, fig. 1 and para. [0018]), wherein the push-to-talk sensor or switch is mounted to the headset (see Turnbull, fig. 1, component 115).

Regarding **claim 15**, Turnbull teaches a communications device including hands-free push-to-talk functionality (see Turnbull, fig. 2), comprising:

a push-to-talk sensor or switch (see Turnbull, fig. 1, component 133) operable by at least one of a preset audible signal, a predetermined movement of the sensor or switch (see Turnbull, para. [0025], lines 3-5 and para. [0026]), or air pressure;

and a processor to control operation of the communications device in response to signals from the push-to-talk sensor or switch (see Turnbull, para. [0053]).

Regarding **claims 16 and 19-21**, the dependent claims are interpreted and rejected for the same reasons set forth above in claims 2, 6, 9 and 14, respectively.

Regarding **claim 22**, Turnbull teaches a method for hands-free push-to-talk functionality, comprising:

detecting at least one of a preset audible signal, a predetermined movement (see Turnbull, fig. 1, component 133, para. [0025], lines 3-5 and para. [0026]), or air pressure; and

controlling operation of a communications device in response to detecting a presence or absence of at least one of the preset audible signal, the predetermined movement, or air pressure (see Turnbull, para. [0053]).

Regarding **claim 23**, Turnbull also teaches the method of claim 22, wherein detecting the preset audible signal comprises detecting one of a voice signal (see Turnbull, para. [0052], lines 3-8), a static signal, a white noise signal, or a predefined sound, word, or group of words or numbers.

Regarding **claim 24**, Turnbull also teaches the method of claim 22, further comprising activating a transmit mode of the communications device in response to detecting the preset audible signal (see Turnbull, para. [0052], lines 3-8).

Regarding **claim 28**, Turnbull also teaches the method of claim 22, further comprising detecting an air pressure greater than a preset air pressure (see Turnbull, para. [0052], lines 3-8).

Regarding **claim 29**, Turnbull also teaches the method of claim 28, further comprising activating a transmit mode in the communications device in response to

detecting the air pressure greater than the preset air pressure (see Turnbull, para. [0052], lines 3-8).

Regarding **claim 30**, Turnbull also teaches the method of claim 29, further comprising: maintaining the communications device in the transmit mode in response to at least one of detecting a voice signal or the preset air pressure after a selected time delay; and switching or maintaining the communications device in one of a receive or standby mode in response to an absence of at least one of a voice signal or the preset air pressure after the selected time delay (see Turnbull, para. [0006], [0007] and para. [0025], lines 3-5).

Regarding **claim 31**, Turnbull teaches a method of making a device for hands-free push-to-talk functionality, comprising:

providing a push-to-talk sensor or switch operable by at least one of a preset audible signal, a predetermined movement of the sensor or switch, or air pressure (see Turnbull, fig. 1, component 133, para. [0025], lines 3-5 and para. [0026]); and

providing means to control operation of a communications device in response to signals from the push-to-talk sensor or switch (see Turnbull, para. [0053]).

Regarding **claims 32 and 34-36**, the dependent claims are interpreted and rejected for the same reasons as set forth above in claims 2, 6, 9 and 14, respectively.



Regarding **claim 37**, Turnbull teaches a computer-readable medium having computer-executable instructions for performing a method, comprising:

detecting at least one of a preset audible signal, a predetermined movement, or air pressure (see Turnbull, fig. 1, component 133, para. [0025], lines 3-5 and para. [0026]); and

controlling operation of a communications device in response to detecting a presence or absence of at least one of the preset audible signal, the predetermined movement, or air pressure (see Turnbull, para. [0053]).

Regarding **claims 38, 39 and 43-45**, the dependent claims are interpreted and rejected for the same reasons as set forth above in claims 23, 24 and 28-30, respectively.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 3-5, 17, 18, 25-27, 33 and 40-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Turnbull as applied to claims 1, 15, 22, 31 and 37, respectively above, and further in view of Magnasco et al. (US. 6,016,347; hereinafter "Magnasco")

Regarding **claim 3**, Turnbull teaches the device of claim 1.

Turnbull is silent to teaching that wherein the push-to-talk sensor or switch comprises a tilt sensor, wherein a transmit mode of the communications device is activated in response to the tilt sensor being tilted more than a predetermined angle from a normalized angle for a predetermined time duration. However, the claimed limitation is well known in the art as evidenced by Magnasco.

In the same field of endeavor, Magnasco teaches a device wherein the push-to-talk sensor or switch comprises a tilt sensor (see Magnasco, col. 2, lines 15-25), wherein a transmit mode of the communications device is activated in response to the tilt sensor being tilted more than a predetermined angle from a normalized angle for a predetermined time duration (see Magnasco, col. 2, lines 39-44).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine the teaching of Turnbull with the teaching of Magnasco in order to improve the technique for controlling an operative condition of a headset communication apparatus (see Magnasco, col. 1, lines 54-60).

Regarding **claims 4**, the combination of Turnbull and Magnasco also teaches the device of claim 3, further comprising means for maintaining the communications device in the transmit mode in response to at least one of detecting a voice signal or the tilt sensor being tilted more than the predetermined angle after a selected time delay (see Turnbull, para. [0006] and [0007]).

Regarding **claim 5**, the combination of Turnbull and Magnasco also teaches the device of claim 3, further comprising means for switching the communications device to one of a receive mode or standby mode in response to an absence of at least one of detecting a voice signal or the tilt sensor being tilted more than the predetermined angle after a selected time delay (see Turnbull, para. [0006], [0007] and para. [0025], lines 3-5).

Regarding **claims 17 and 18**, the dependent claims are interpreted and rejected for the same reasons as set forth above in claims 3 and 4, respectively.

Regarding **claim 25**, the combination of Turnbull and Magnasco also teaches the method of claim 22, further comprising detecting a tilt sensor being tilted more than a predetermined angle from a normalized angle for a predetermined duration (see Magnasco, col. 2, lines 15-25 and lines 39-44).

Regarding **claim 26**, the combination of Turnbull and Magnasco also teaches the method of claim 25, further comprising activating a transmit mode in the communications device in response to detecting the tilt sensor being tilted more than the predetermined angle from the normalized angle for a predetermined duration (see Magnasco, col. 2, lines 15-25 and lines 39-44).

Regarding **claim 27**, the combination of Turnbull and Magnasco also teaches the method of claim 25, further comprising:

maintaining the communications device in the transmit mode in response to at least one of detecting a voice signal or detecting the tilt sensor being tilted more than the predetermined angle after a selected time delay; and

switching or maintaining the communications device in one of a receive or standby mode in response to an absence of at least one of a voice signal or detecting the tilt sensor being tilted more than the predetermined angle after the selected time delay (see Turnbull, para. [0006], [0007] and para. [0025], lines 3-5).

Regarding **claim 33**, the dependent claim is interpreted and rejected for the same reason as set forth above in claim 3.

Regarding **claims 40-42**, the dependent claims are interpreted and rejected for the same reasons set forth above in claims 25-27, respectively.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Ruppert et al. (US. 6,236,969 B1) teach a PTT headset.

Reyes (US. 2005/0085252 A1) teaches a microphone deselection system.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wen W. Huang whose telephone number is (571) 272-7852. The examiner can normally be reached on 10am - 6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay A. Maung can be reached on (571) 272-7882. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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QUOCHIEN B. VUONG  
PRIMARY EXAMINER